

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

KENNETH COZART,

Plaintiff,

v.

CIVIL ACTION NO. 5:18-cv-00397

BLUESTONE INDUSTRIES, INC.,

Defendant.

**ORDER OF DISMISSAL**

The Court has reviewed the parties' *Joint Motion to Approve Settlement* (Document 79). Therein, the parties indicated that the Fair Labor Standards Act (FLSA) claims were being dismissed, the settlement was reached as to seven individuals (including the named Plaintiff) and was not a class settlement. The Court ordered the parties to provide further information regarding the settlement to permit meaningful evaluation prior to approval. Instead, the parties filed a *Notice of Withdraw of Joint Motion for Approval of Settlement* (Document 81), wherein they state that Court approval is unnecessary "[a]s there is no class settlement and the settlement will not involve the Fair Labor Standards Act." The Court again ordered the parties to provide further information, noting that "[n]othing on the docket indicates that the FLSA claim was dismissed prior to the parties reaching a settlement," and Court approval is required for settlements involving FLSA claims. Counsel for the Plaintiff filed a sealed document explaining the "tactical decision" to dismiss the FLSA claim and negotiate a settlement as to the claims brought pursuant to the West Virginia Wage Payment Collection Act. (Document 83.)

After careful consideration and based on the Plaintiff's representation that the FLSA claim was voluntarily dismissed and was not part of the settlement negotiations, the Court **ORDERS** that the *Joint Motion to Approve Settlement* (Document 79) be **TERMINATED** as withdrawn. The Court further **ORDERS** that the remaining requirements and deadlines contained in the scheduling order be suspended, that any pending motions be **TERMINATED AS MOOT**, and that this action be **DISMISSED WITH PREJUDICE** and **STRICKEN** from the docket.

The Court **DIRECTS** the Clerk of this Court to send a certified copy of this Order to any pro se party and to all counsel of record.

ENTER: September 18, 2019



IRENE C. BERGER

UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA